REMARKS

Claims 1 through 5, 8 through 12, 15 through 19 and 22 through 26 are currently pending in the application.

This amendment is in response to the Office Action of May 18, 2006.

35 U.S.C. § 102(b) Anticipation Rejections

Anticipation Rejection Based on Cathey et al. (U.S. Patent 5,391,259)

Claims 1 through 5, 8 through 12, 15 through 19 and 22 through 26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Cathey et al. (U.S. Patent 5,391,259).

Applicant asserts that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Turning to the cited prior art, the Cathey et al. reference describes forming a substantially uniform array of atomically sharp emitter tips wherein the difference in the height of the emitter tips formed are in the range of better than 5%, more typically in the range of 10% to 20%. Cathey et al. further describes emitter tips varying in size as a result of the oxidation process necessary to "sharpen" or point the tip varying by as much as 20% thereby increasing the possibility of non-uniformity among the various tips of an array.

Applicant asserts the Cathey et al. reference does not anticipate the claimed inventions of independent claims 1, 8, 15, and 22 under 35 U.S.C. § 102 because the Cathey et al. reference does not identically describe, either expressly or inherently, each and every element of the claimed inventions in as complete detail as contained in the claims. Applicant asserts that the Cathey et al. reference does not identically describe the elements of the claimed inventions of independent claims 1, 8, 15, and 22 calling for "at least one emitter in each pixel having substantially a same height as a corresponding pixel in another emitter of the emitter array, a material for each emitter comprising amorphous silicon, the at least one emitter and the another emitter having a size within about 0.5 % of each other in a range from about 3.25 % to within 9.5

% of each other", "at least one emitter in each pixel having substantially a same height as a corresponding pixel in another emitter of the emitter array, a material for each emitter comprising amorphous silicon, the at least one emitter and the another emitter having a size within about 0.5 % of each other", and "an emitter in each pixel having substantially a same height as another emitter of a corresponding pixel of the emitter display, a material for each emitter comprising amorphous silicon, the emitter and the another emitter having a size within about 0.5 % of each other in a range from about 3.25 % to within 9.5 % of each other". In contrast to the claimed inventions of independent claims 1, 8, 15, and 22, Applicants asserts that the Cathey et al. reference merely describes forming a substantially uniform array of atomically sharp emitter tips wherein the difference in the height of the emitter tips formed are in the range of better than 5%, more typically in the range of 10% to 20% as described in the prior art. Applicants assert that, at best, the Cathey et al. reference may inherently describe atomically sharp emitter tips wherein the difference in the height of the emitter tips formed are in the range of better than 5%. Additionally, the Cathey et al. reference contains no description of the size of an emitter tip whatsoever as is required in independent claims 1, 8, 15, and 22. Applicant asserts that there is no description or inherent result of the manufacturing process in the Cathey et al. reference to support the elements of the claimed inventions of independent claims 1, 8, 15, and 22. Applicant asserts that any other Applicant asserts that such a description is not the claimed inventions of independent claims 1, 8, 15, and 22. Accordingly, independent claims 1, 8, 15, and 22 are allowable as well as the dependent claims therefrom.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on Cathey et al. (U.S. Patent 5,391,259)

Claims 3 through 5, 10 through 12, 17 through 19 and 24 through 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cathey et al. (U.S. Patent 5,391,259).

Applicant further submits that to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there

must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.

Applicant asserts that dependent 3 through 5, 10 through 12, 17 through 19, and 24 through 26 are allowable as they depend from allowable independent claims 1, 8, 15, and 22 for the reasons set hereinabove.

Applicant submits that claims 1 through 5, 8 through 12, 15 through 19, and 22 through 26 are clearly allowable over the cited prior art.

Applicant requests the allowance of claims 1 through 5, 8 through 12, 15 through 19, and 22 through 26 and the case passed for issue.

Respectfully submitted,

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